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REDISTRICTING IN MASSACHUSETTS

Prepared and Published by

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REDISTRICTING IN MASSACHUSETTS

This booklet briefly explains the process for changing the boundaries of the various kinds of electoral districts in Massachusetts. Part One describes how legislative districts for electing members of Congress, state senators, state representatives, and governor's councillors are drawn by the state Legislature. Part Two outlines how local districts - precincts and city wards - are drawn by local officials, subject to approval by a state agency, the Local Election Districts Review Commission.

Wards and precincts, and the cities and towns which they comprise, form the building blocks for the larger legislative districts. The smallest electoral district is the precinct; its residents all vote at the same polling place on election day.

Districts must be drawn so as to contain roughly equal numbers of residents; this is different from the number of registered voters. Population is determined by the most recent census - for congressional redistricting, the federal census taken in 1980 and every tenth year after; for all other districts, the state census taken in 1985 and every tenth year after. In addition, cities and towns take an annual local census, or "street listing" of residents, which is used to remove from the voting list the names of residents who have moved away. This local census may also be used to redraw precinct lines.

For the boundaries of current districts, contact the city or town clerk or election commission for wards and precincts, and the Secretary of State's Elections Division for legislative districts. For further information:

- Elections Division, Office of the Secretary of State, One Ashburton Place, Room 1705, Boston 02108, (617) 727-2828.
- Local Election Districts Review Commission, c/o Elections Division (above).
- U.S. Bureau of the Census, 441 Stuart Street, Boston 02116, (617) 223-2328.
- State Census Division, Office of the Secretary of State, One Ashburton Place, Room 1612, Boston 02108, (617) 727-2846.

PART ONE: LEGISLATIVE REDISTRICTING

Congressional districts

Massachusetts has, at present, eleven members in the United States House of Representatives. Each Representative is chosen from a district formed on the basis of the number of legal residents in the district. The number of legal residents is derived from the federal census which is taken at the beginning of each decade. Whether or not Massachusetts loses or gains a Representative is decided by the federal government based on the relative population of all fifty states and the District of Columbia.

The Bureau of the Census, a federal agency, is responsible for counting the number of persons in the United States. This was done in 1980, and is done every ten years. The President then transmits to the Congress the number of Representatives to which each state is entitled. Within fifteen days after receiving the President's statement, the Clerk of the House transmits a certificate to the Governor of each state, stating the number of Representatives to which that state is entitled. It is then the duty of the state to redraw congressional districts, each to consist of an approximately equal number of residents, corresponding to the number of Representatives certified to the State by the Congress. In Massachusetts, this task is carried out by the state Legislature.

In the past, the Legislature has established a Joint Special Committee consisting of members from both the Senate and the House. This committee releases a study of how it believes districting should best be done. Based on these recommendations the full Legislature redistricts the state. The new districts take effect for the next Congressional election after the federal census (e.g. 1982).

Legal citations:

- U.S. Const. art. 1, § 2; 2 U.S.C. § 2a (1976); White v. Weiser, 412 U.S. 783 (1973); Reynolds v. Sims, 377 U.S. 533 (1964); G.L. ch. 57, § 1.

State legislative districts

The Massachusetts Legislature is responsible for redrawing state representative, state senatorial, and governor's councillor districts. This redistricting is based on the number of legal residents in each district, as determined by the state census taken in 1985 and every tenth year after. The Legislature starts redistricting in the year after the state census is completed.

Each district for a particular office must contain an equal number of residents, as nearly as possible. For example, each state representative district must contain approximately 36,000 residents. This figure is obtained by dividing the total number of Massachusetts residents by the number of state representative seats (160). A district's population must probably be within 10% of that average number, depending on natural boundaries and other circumstances. For example, in a state representative district, the number of residents can probably be 3,600 less or 3,600 more than 36,000. This same procedure is used to calculate the number of residents in the 40 senatorial districts. Councillor districts are composed of five contiguous state senatorial districts; there are eight councillor districts in all.

There are other requirements the Legislature must follow when it redraws districts. The districts must be compact and contiguous. Whenever possible, a state representative or a state senatorial district should not be in two counties. Also, state representative districts should not split towns or cities, if it can be avoided.

The new districts take effect for the state primary and election three years after the state census on which they are based. The new districts resulting from the 1985 state census will take effect for the 1988 state primary and election.

Legal citations:

- Generally: Mass. Const. amend. art. 101; G.L. ch. 57, §§ 2, 3, 4; 1977 House Doc. No. 5900, at 110.
- Standards: Merriam v. Secretary of the Commonwealth, 375 Mass. 246, 376 N.E.2d 838 (1978); Brown v. Thomson, 103 S.Ct. 2690 (1983).
- Timing: Lamson v. Secretary of the Commonwealth, 341 Mass. 264, 168 N.E.2d 480 (1960).

PART TWO: LOCAL REDISTRICTING

A precinct is the smallest electoral district; its residents all vote at the same polling place. A town, or a ward of a city, may consist of several precincts or may form a single precinct. Precincts are the building blocks for the larger districts discussed in Part One. In addition, towns with representative town meetings elect their members by precinct, and cities choose political party committees and sometimes city council members or other officials by ward.

Part Two describes how the boundaries of precincts and city wards are redrawn. This is usually required after each state census every ten years; the next state census is in 1985. In addition, most precinct lines may be redrawn in any year the local government wishes to do so.

Legal citations:

- G.L. ch. 54, §§ 1, 2, 6, 7, 24.

Timing

Cities (except Boston) and towns are required to redistrict after the state census every ten years beginning in 1985, if:

- the wards of a city do not contain approximately equal numbers of residents, so that each ward's population is within 10 percent of the average, or
- a ward not divided into precincts contains more than 4,000 residents, or
- a town contains more than 6,000 residents.

Any city or town may redraw its ward or precinct lines in a state census year.

In any other year, but not until the Legislature passes the law redrawing legislative districts following a state census, a city or town may redistrict. The municipality must still meet the standards required by state law (see below). But in these other years, a city may not change the boundaries of its wards, unless the state Legislature allows it by special law, or unless a change is made in the number of wards to conform to a new charter.

Legal citations:

- Census years: G.L. ch. 54, §§ 1 (city wards), 2 (city precincts), 6 (towns); 1982 Mass. Acts ch. 605, § 3(Boston).
- Other years: G.L. ch. 54, §§ 2 (cities), 7 (towns).
- Ward changes: G.L. ch. 54, § 1; City of North Adams (L.E.D.R.C. Nov. 27, 1978); City of Gloucester (L.E.D.R.C. Oct. 25, 1977). See, e.g., 1979 Mass. Acts ch. 201.

Standards

State law requires that cities and towns meet the following standards when new ward or precinct lines are drawn:

- Each new precinct must be "compact and contiguous".
- Precincts must be bounded by the center-line of streets or other well-defined boundaries.
- No precinct may contain more than 4,000 residents.
- Every precinct's population must be within 10 percent of the average precinct population for that ward or town. Ward populations must be within 10 percent of the average ward population for the city. These standards may be exceeded only if some legitimate justification (such as a geographic obstacle) is shown.
- For state election purposes, except in a state census year, precincts may not be changed in a ward or town which is in more than one state senatorial, representative, or governor's council district. They may be changed for local elections only, however, and in this case two sets of precinct lines must be maintained. No precinct may be in two different congressional districts.

Legal citations:

- Generally; G.L. 54, §§ 2 (cities), 6 (towns).
- Population deviations: L.E.D.R.C. memorandum, Jan. 3, 1984; Brown v. Thomson, 103 S. Ct. 2690, 2696 (1983); Latino Political Action Committee v. City of Boston, 568 F. Supp. 1012, 1017 (D. Mass.), stay denied, 716 F.2d 68 (1st Cir. 1983), stay denied, No. A-99 (U.S. Aug. 11, 1983) (Brennan, J.; in chambers).
- Same congressional district: G.L. ch. 54, § 4.

Procedure

Local redistricting is adopted by ordinance passed by the city council or board of aldermen in a city, and by vote of the board of selectmen in a town. When redistricting is optional in towns, the town meeting may vote to require the board of selectmen to redistrict.

Cities and towns must adopt a redistricting plan no later than June 15 of any year (June 1 for cities in non-census years).

The city or town clerk must send notice of the redistricting plan to the office of the Secretary of State no later than July 1. Three items must be submitted: (1) the number and designation (numbers or letters) of wards and precincts; (2) an official map showing the new wards and precincts, designated by number and letter; and (3) a description of the new wards and precincts which includes the number of residents in each new ward and precinct. The Secretary of State transmits these materials to the Local Election Districts Review Commission. This part-time Commission consists of three members, one each appointed by the Governor, the Attorney General, and the Secretary of State.

The Commission reviews the plan to see if it complies with the law. It either approves the redistricting plan or notifies the mayor or city manager of a city or the board of selectmen of a town that it disapproves, no later than September 1 of that year. If the plan is disapproved, the Commission must clearly spell out the deficiencies in the plan.

The procedures for correcting deficiencies differ for cities and towns. For a city: within fifteen days of receiving the notice of deficiencies from the Commission, the mayor or city manager revises the plan to bring it into compliance, and presents it to the city council. Within twenty days after receiving the mayor's or city manager's revision, the city council must adopt a revised plan. If the city council fails to adopt a plan, the mayor or city manager will order a plan into effect, not later than October 15. The revised plan is subject to the approval of the Commission.

For a town: the board of selectmen receives the notice of deficiencies from the Commission. The Commission prescribes a time limit within which the board of selectmen must revise the plan to bring it into compliance with the Commission's notice. In any case, the plan must be revised no later than September 20. If the board of selectmen fails to change the plan satisfactorily and redistricting is required, the Commission must do the redistricting itself, not later than October 15. To do this, it can appoint a master, who will redistrict the town within fifteen days of appointment, subject to the approval of the Commission.

Legal citations:

- Cities: G.L. ch. 54, §§ 1, 2.
- Towns: G.L. ch. 54, §§ 6, 7.

Subprecincts in representative town meeting towns

In a town with a representative town meeting, the board of selectmen may further divide these precincts for the sole purpose of facilitating voting. Each subprecinct will be designated by a letter added to a number or a number added to a letter. All town meeting members who represented the precinct which was divided must continue to represent the entire territory of the precinct. Notice of the redistricting must be sent to the office of the Secretary of State, but it need not be approved by the Local Election Districts Review Commission. Within twenty days after the division, the board of selectmen must notify each registered voter in a newly divided precinct, in writing, of the location of the polling place to be used by that voter.

Legal citations:

- G.L. ch. 54, § 7A; Town of Framingham (L.E.D.R.C. June 8, 1978).

Notice to the public and local officials

Once a redivision has been approved by the Commission, the city council in a city or the board of selectmen in a town must publish a map or description of the new precincts. The map must clearly define the boundaries of the precincts. Copies of the map or description of the precincts are sent to the registrars of voters, the board of assessors, and to the election officers in each precinct. Copies are also posted in public places in every precinct as determined by the city council or the board of selectmen. Every registered voter whose polling place is changed by the redistricting must be notified by mail of the new polling place.

Legal citations:

- Cities: G.L. ch. 54, § 5.
- Towns: G.L. ch. 54, § 8.
- Notice to voters: G.L. ch. 54, § 24.

Effective date

Changes in wards and precincts are effective on December 31 of the year of their adoption, except in state census years like 1985. In those years, state census results will be reported according to the new boundaries. But they will not apply to state primaries and elections until 1988 (and every tenth year after).

Until that state primary, whether the new wards and precincts drawn in a state census year are used in local elections depends on the following rules. For a city: in the state census year itself (e.g., 1985), the new districts will only be used in a city election if the Local Election Districts Review Commission approves them before May 1. In any other local election before that state primary, the new boundaries will be used unless the city council orders the old wards and precincts used instead. For a town: the new precincts are not in effect for local elections until the state primary in 1988 (and every tenth year after), unless the board of selectmen orders that they will be in effect for town elections.

Legal citations:

- Census reporting: G.L. ch. 54, §§ 1 (cities), 6 (towns).
- State census years: G.L. ch. 54, §§ 4 (cities), 9A (towns).
- Other years: G.L. ch. 54, § 2; Town of Shrewsbury (L.E.D.R.C. July 24, 1981).

